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CLIENT/MATTER NUMBER
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VIA HAND DELIVERY

Mr. Jeff S. Jordan
Supervisory Attorney
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6027

Dear Mr. Jordan:

The undersigned serves as counsel to Elizabeth Dole, United States Senator from North Carolina ("Sen. Dole") and the Elizabeth Dole Committee, Inc., the principal authorized committee for Sen. Dole, Republican nominee for re-election to the United States Senate from North Carolina in 2008 ("the Committee").

This is in response to the Complaint filed against Sen. Dole and the Committee ("the Complaint") by the Democratic Party of North Carolina in the above-referenced Matter Under Review 6027 ("the MUR").

Sen. Dole has no knowledge of or involvement in the facts giving rise to the Complaint and the Complaint states no facts to the contrary, because none exist. The Complaint must, therefore, be dismissed against Sen. Dole as a matter of law.

With respect to the Complaint against the Committee, it submits the following response:

The Complaint alleges that the Committee produced and aired a television advertisement on or about June 9, 2008 in which Sen. Dole appears, which is correct. The Complaint *inaccurately* alleges that the ad does not comply with the Federal Election Commission "Stand By Your Ad" requirements.

The opening statement of the ad is Sen. Dole's personal voiceover stating "I'm Elizabeth Dole and I approved this message" and a full screen shot of Sen. Dole during the time when the statement is being spoken. The voice is clearly Sen. Dole's and the full screen image of Sen. Dole is present throughout the voiceover.

The Democratic Party alleges that the image of Sen. Dole is only 70% of the vertical screen height, which is incorrect.

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The ad in its original version displayed Sen. Dole's image in the opening screen shot within a letterbox which was included as part of the total image on the screen. Sen. Dole's image *including* the letterbox was 85.2% of the total image appearing on the screen.

Originally the advertisement was going to run full screen High Definition ("HD") on HD channels and was to have been down-converted for Standard Definition ("SD") channels. On the original HD version, the ad was full screen 16 x 9 aspect ratio, and the disclaimer shot was well within the 80% parameters. When the ad was down-converted from the HD master to run on SD, it automatically letterboxed the spot to run in the 4 x 3 aspect ratio, therefore reducing the size of the disclaimer shot to some degree. However, even with that technological conversion, on SD channels the image of the total was still 85.2%.

This issue is something the Commission will need to address in the immediate future, as most stations down-convert the HD master to run on their SD stations. And it will always letterbox the HD version to SD, therefore reducing the overall screen size of the ad, notwithstanding the original dimensions of the spot.

The second issue raised by the Democratic Party was the absence of the written / printed additional statement at the end of the ad. Because of an error by the vendor who oversaw and finalized the ad's production, the final printed statement was inadvertently omitted. Immediately after the ad began airing, the Committee contacted the vendor, who revised the disclaimer at the end of the ad at its own expense and shipped revised versions of the ad to the stations. Because the vendor was making the changes to the printed disclaimer, the vendor re-edited the initial image to try to anticipate the inadvertent shrinkage when the HD master was down-converted to SD. The revised master reflects an image of Sen. Dole in the first screen shot as follows: counting the letterbox, 95.8% and 80.8% of the screen height.

The Commission's regulations state that the disclaimer "must be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for....the communication. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked." 11 C.F.R. §110.11(c). There is absolutely no question that the disclaimer in this instance was clear and conspicuous, it was *not* difficult to read or hear and the placement was not overlooked. Even before the revision to the ad, there was simply no question that the ad was paid for by the Committee and Sen. Dole both appeared and spoke the required disclaimer.

Clearly, the Democratic Party of North Carolina had no difficulty discerning that the Elizabeth Dole Committee was the sponsor of the ad, wasting no time whatsoever in preparing and filing the Complaint. It is absurd for the Complainant to now claim that the disclaimer prevented anyone, including the Complainant, from knowing the sponsor of the ad.

The Committee submits that it has substantially complied with the provisions of the law and Commission regulations in the original version of the ad. The Committee then, on its own, took

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specific steps to make changes in the ad to erase any doubts as to whether the ad complied with the technical requirements of the regulations.

Accordingly, the Committee moves that the Commission dismiss the Complaint for the reasons that a) the ad substantially complied at all times with Commission regulations and b) it voluntarily required the vendor to edit the ad and replaced the ad with the stations immediately upon the realization that the printed disclaimer was not present on the final version of the ad.

Please contact the undersigned at (202) 295-4081 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Cleta Mitchell".

Cleta Mitchell, Esq.
Counsel, Elizabeth Dole Committee, Inc. and
Sen. Elizabeth Dole

Enclosures

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